

EXPRESS MAIL LABAEL NO. EV 063794647 US

JC02 Rec'd PCT/PTO 29 MAR 2002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Richard J. Whitley et al.

Attorney Docket: UAB-1610/22

Serial No.: 10/009,972

International Application: PCT/US00/40165

Priority Date: 08 June 1999

I.A. Filing Date: 08 June 2000

For: HERPES SIMPLEX VIRUS EXPRESSING FOREIGN GENES
AND METHOD FOR TREATING CANCERS THEREWITH

TECHNICAL CENTER 1600/2900

APR 09 2002

RECEIVED

**RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C.
371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)**

BOX PCT

Assistant Commissioner for Patents
Washington, D.C. 20231

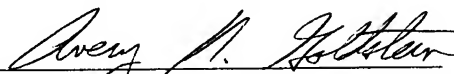
Dear Sir:

In response to the Notification of Missing Requirements dated 02/26/2002, Applicant is submitting herewith: (1) Copy of the Notification, (2) Copies of the documents submitted February 14, 2002, which are: (a) Transmittal Letter, (b) Executed Declaration and Power, (c) Check in the amount of \$65.00 paid, (d) Postcard (with PTO/PTC stamp), and (e) Express Mail receipt.

Although Applicant believes there are no further fees to be charged, since the late filing of the Declaration surcharge has already been paid, as indicated by the enclosed copies, the Commissioner is hereby authorized to charge any additional amount due to Deposit Account 07-1180. A duplicate of this document is enclosed.

If the Examiner has any further questions relating to this Application, Applicant's attorney may be reached at (248) 647-6000.

Respectfully submitted,



Avery N. Goldstein, Reg. No. 39,204
Attorney for Applicant
Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, P.C.
280 N. Old Woodward Ave, Ste. 400
Birmingham, MI 48009-5394
(248) 647-6000

TRANSMITTAL LETTER TO THE UNITED STATES
DESIGNATED/ELECTED OFFICE (DO/EO/US)
CONCERNING A FILING UNDER 35 U.S.C. 371

UAB-16102/22

U.S. APPLICATION NO. (IF KNOWN, SEE 37 CFR 1.51)

10/009,972

COPY

INTERNATIONAL APPLICATION NO.
PCT/US00/40165INTERNATIONAL FILING DATE
8 JUNE 2000PRIORITY DATE CLAIMED
8 JUNE 1999

TITLE OF INVENTION

HERPES SIMPLEX VIRUS EXPRESSING FOREIGN GENES AND METHOD FOR TREATING CANCERS
THEREWITH

APPLICANT(S) FOR DO/EO/US

WHITLEY, Richard J.; MARKERT, James Mac Dowell; GILLESPIE, George Yancey; PARKER, Jacqueline, Ness

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. ☐ This is a **FIRST** submission of items concerning a filing under 35 U.S.C. 371.
2. ☒ This is a **SECOND** or **SUBSEQUENT** submission of items concerning a filing under 35 U.S.C. 371.
3. ☐ This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (24) indicated below.
4. ☐ The US has been elected by the expiration of 19 months from the priority date (Article 31).
5. ☐ A copy of the International Application as filed (35 U.S.C. 371 (c) (2))
 - a. ☐ is attached hereto (required only if not communicated by the International Bureau).
 - b. ☐ has been communicated by the International Bureau.
 - c. ☐ is not required, as the application was filed in the United States Receiving Office (RO/US).
6. ☐ An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)).
 - a. ☐ is attached hereto.
 - b. ☐ has been previously submitted under 35 U.S.C. 154(d)(4).
7. ☐ Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371 (c)(3))
 - a. ☐ are attached hereto (required only if not communicated by the International Bureau).
 - b. ☐ have been communicated by the International Bureau.
 - c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
 - d. ☐ have not been made and will not be made.
8. ☐ An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).
9. ☒ An oath or declaration of the inventor(s) (35 U.S.C. 371 (c)(4)).
10. ☐ An English language translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371 (c)(5)).
11. ☐ A copy of the International Preliminary Examination Report (PCT/IPEA/409).
12. ☐ A copy of the International Search Report (PCT/ISA/210).

Items 13 to 20 below concern document(s) or information included:

13. ☐ An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
14. ☐ An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
15. ☐ A **FIRST** preliminary amendment.
16. ☐ A **SECOND** or **SUBSEQUENT** preliminary amendment.
17. ☐ A substitute specification.
18. ☐ A change of power of attorney and/or address letter.
19. ☐ A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 35 U.S.C. 1.821 - 1.825.
20. ☐ A second copy of the published international application under 35 U.S.C. 154(d)(4).
21. ☐ A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4).
22. ☒ Certificate of Mailing by Express Mail
23. ☒ Other items or information:

postcard

U.S. APPLICATION NO. (IF KNOWN, SEE 37 CFR 1.5) 10/009,972	INTERNATIONAL APPLICATION NO. PCT/US00/40165	ATTORNEY'S DOCKET NUMBER UAB-16102/22
--	--	---

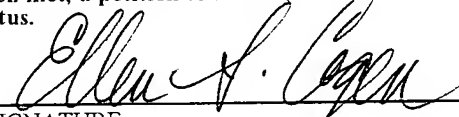
24. The following fees are submitted: BASIC NATIONAL FEE (37 CFR 1.492 (a) (1) - (5)) :				COPY	
<input type="checkbox"/> Neither international preliminary examination fee (37 CFR 1.482) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO and International Search Report not prepared by the EPO or JPO	\$1040.00				
<input type="checkbox"/> International preliminary examination fee (37 CFR 1.482) not paid to USPTO but International Search Report prepared by the EPO or JPO	\$890.00				
<input type="checkbox"/> International preliminary examination fee (37 CFR 1.482) not paid to USPTO but international search fee (37 CFR 1.445(a)(2)) paid to USPTO	\$740.00				
<input type="checkbox"/> International preliminary examination fee (37 CFR 1.482) paid to USPTO but all claims did not satisfy provisions of PCT Article 33(1)-(4)	\$710.00				
<input type="checkbox"/> International preliminary examination fee (37 CFR 1.482) paid to USPTO and all claims satisfied provisions of PCT Article 33(1)-(4)	\$100.00				
ENTER APPROPRIATE BASIC FEE AMOUNT =				\$0.00	
Surcharge of \$130.00 for furnishing the oath or declaration later than _____ months from the earliest claimed priority date (37 CFR 1.492 (e)). <div style="display: flex; justify-content: flex-end; align-items: center;"> <input type="checkbox"/> 20 <input checked="" type="checkbox"/> 30 </div>				\$130.00	
CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE		
Total claims	- 20 =	0	x \$18.00	\$0.00	
Independent claims	- 3 =	0	x \$84.00	\$0.00	
Multiple Dependent Claims (check if applicable). <input type="checkbox"/>				\$0.00	
TOTAL OF ABOVE CALCULATIONS =				\$130.00	
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27). The fees indicated above are reduced by 1/2.				\$65.00	
SUBTOTAL =				\$65.00	
Processing fee of \$130.00 for furnishing the English translation later than _____ months from the earliest claimed priority date (37 CFR 1.492 (f)). <div style="display: flex; justify-content: flex-end; align-items: center;"> <input type="checkbox"/> 20 <input type="checkbox"/> 30 + </div>				\$0.00	
TOTAL NATIONAL FEE =				\$65.00	
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31) (check if applicable). <input type="checkbox"/>				\$0.00	
TOTAL FEES ENCLOSED =				\$65.00	
				Amount to be: refunded	\$
				charged	\$

- a. ☒ A check in the amount of **\$65.00** to cover the above fees is enclosed.
- b. ☐ Please charge my Deposit Account No. _____ in the amount of _____ to cover the above fees. A duplicate copy of this sheet is enclosed.
- c. ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. **07-1180** A duplicate copy of this sheet is enclosed.
- d. ☐ Fees are to be charged to a credit card. **WARNING:** Information on this form may become public. **Credit card information should not be included on this form.** Provide credit card information and authorization on PTO-2038.

NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the application to pending status.

SEND ALL CORRESPONDENCE TO:

Ellen S. Cogen
Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, P.C.
280 N. Old Woodward Avenue, Ste. 400
Birmingham, MI 48009-5394
(248) 647-6000


SIGNATURE

Ellen S. Cogen
NAME

38,109
REGISTRATION NUMBER

2/14/02
DATE



UNITED STATES PATENT AND TRADEMARK OFFICE

COPY

Commissioner for Patents, Box 401
 United States Patent and Trademark Office
 Washington, D.C. 20231
 www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/009,972	Richard J. Whitley	UAB-16102/22

25006
 GIFFORD, KRASS, GROH, SPRINKLE
 ANDERSON & CITKOWSKI, PC
 280 N OLD WOODARD AVE
 SUITE 400
 BIRMINGHAM, MI 48009

*Correct Defects
 out. 3/26/02
 Due: 4/26/02*

INTERNATIONAL APPLICATION NO.	
PCT/US00/40165	
I.A. FILING DATE	PRIORITY DATE
06/08/2000	

CONFIRMATION NO. 5479
 371 FORMALITIES LETTER



OC00000007517272

Date Mailed: 02/26/2002

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as an Elected Office (37 CFR 1.495):

- U.S. Basic National Fees
- Indication of Small Entity Status
- Copy of IPE Report
- Copy of the International Application
- Copy of the International Search Report
- Oath or Declaration
- Preliminary Amendments
- Request for Immediate Examination
- Small Entity Statement

RECEIVED
 MAR 04 2002

GIFFORD, KRASS, GROH, SPRINKLE,
 ANDERSON & CITKOWSKI, P.C.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it:
 - is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68.

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTH FROM THE DATE OF THIS NOTICE OR BY 22 or 32 MONTHS (where 37 CFR 1.495 applies) FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

LAMONT M HUNTER

Telephone: (703) 305-3686

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/009,972	PCT/US00/40165	UAB-16102/22

FORM PCT/DO/EO/905 (371 Formalities Notice)

COPY

COPY

32479


9-9/720
49

DATE 2/13/02

GIFFORD, KRASS, GROH, SPRINKLE,
ANDERSON & CITKOWSKI, P.C.
280 N. OLD WOODWARD, STE. 400
BIRMINGHAM, MI 48009-5394

PAY TO THE ORDER OF Commissioner of Patents & Trademarks \$ 65.00

Fifty - five & 00/100 DOLLARS

 Comerica Bank
Detroit, Michigan

FOR 9903-16102/22 JK

Robert Sherard

11032479 072000096 1840129546

MP

GUARDIAN • SAFETY

© 2001 American BA

Security features
are available
only on this
check.

See back for details.

COPY



POST OFFICE TO ADDRESSEE



EV 011110687 US

UNITED STATES POSTAL SERVICE®

ORIGIN (POSTAL USE ONLY)		
PO ZIP Code <u>48012</u>	Day of Delivery <input checked="" type="checkbox"/> Next <input type="checkbox"/> Second	Flat Rate Envelope <input type="checkbox"/>
Date In <u>02/14/02</u>	Time In <input checked="" type="checkbox"/> 12 Noon <input type="checkbox"/> 3 PM	Postage \$ <u>12.45</u>
Weight <u>16.41</u> lbs. <u>4</u> ozs.	Military <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Return Receipt Fee
No Delivery <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	Acceptance Clerk Initials <u>21</u>	COD Fee Insurance Fee
Total Postage & Fees \$ <u>12.45</u>		

SEE REVERSE SIDE FOR
SERVICE GUARANTEE AND LIMITS
ON INSURANCE COVERAGE

☐ **WAIVER OF SIGNATURE** (Domestic Only): Additional merchandise insurance is void if waiver of signature is requested. I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and I authorize that delivery employee's signature constitutes valid proof of delivery.

NO DELIVERY ☐ Weekend ☐ Holiday Customer Signature

CUSTOMER USE ONLY	
METHOD OF PAYMENT: Express Mail Corporate Acct. No.	<u>X480320</u>
FROM: (PLEASE PRINT)	PHONE <u>248 647 6000</u>
GIFFORD KRASS GROH & ASSOC PC 280 N OLD WOODWARD AVE STE 400 BIRMINGHAM MI 48009-5394	
ESE/JK UAB-16/02/22 2/14/02	

Federal Agency Acct. No. or Postal Service Acct. No.	
TO: (PLEASE PRINT)	PHONE <u>703 305 9282</u>
ASSISTANT COMMISSIONER FOR PATENTS WASHINGTON DC 20231-0001	
Box PCT	

FOR PICKUP OR TRACKING CALL 1-800-222-1811 www.usps.com



Custom r Copy
Label 11-F August 2000

PATENT

BOX PCT

The received stan the U.S. Patent and Trademark Office impii
hereon acknowledges the filing of:

- ☒ Transmittal Letter ☐ New Patent Application
- ☐ Page(s) Specifications ☐ Page(s) Claims
- ☐ Page(s) Abstract ☐ Sheets of Drawings
- ☐ Small Entity Declaration ☒ Declaration & Power of Atty
- ☐ IDS, PTO 1449 & Patents ☐ Assignment & Recordation Cover Sheet
- ☐ Amendment/Response ☒ Check \$ 165.00

1010 Rec'd PCT/PTO 14 FEB 2002

Other:

Inventor: Richard J. Whitley et al.

Serial/Reg. No. 10/009,972 Atty Docket No. UAB-16/02/22

Date: 2/14/2002 Date Due:

ESE/JK ☒ Cert. Of Mailing/Express Mail Label No. EV 011110687US